

Message Text

CONFIDENTIAL

PAGE 01 OTTAWA 04476 01 OF 02 132311Z
ACTION EUR-12

INFO OCT-01 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DLOS-09 DODE-00
DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00
H-01 INR-10 INT-05 IO-13 JUSE-00 L-03 NSAE-00
NSF-01 OES-09 OMB-01 PA-01 PM-05 SP-02 SS-15
NSCE-00 SSO-00 ICAE-00 INRE-00 /134 W
-----126363 132347Z /14

O 132255Z SEP 78
FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC IMMEDIATE 8635
AMCONSUL TORONTO NIACT IMMEDIATE
ALL CANADIAN POSTS POUCH

C O N F I D E N T I A L SECTION 01 OF 02 OTTAWA 04476

DEPT. FOR DELIVERY TO EUR/CAN OPENING OF BUSINESS
TORONTO FOR AMB. ENDERS

E.O.11652: GDS
TAGS: EFIS, CA
SUBJECT: FISHERIES AND BOUNDARIES NEGOTIATIONS AND
-- CANADA'S EXPANDED CLAIM IN THE GULF OF MAINE

REF: STATE 231339

1. SUMMARY: AMBASSADOR PRESENTED REFTEL ARGUMENTS TO
EXTAFF MINISTER JAMIESON AND AMB CADIEUX IN 70-MINUTE
SESSION THIS MORNING. JAMIESON REPLIED THAT HIS PRESENT
INTENTION IS TO PUBLISH (BUT NOT TO PROMULGATE, AND THUS
NOT TO ENFORCE) THE ADDITIONAL CLAIM. HE WILL, HOWEVER,
REFLECT ON OUR VIEWS, DISCUSS THEM WITH THE CABINET, AND
RESPOND TO AMBASSADOR TONIGHT. JAMIESON'S MAIN ARGUMENT
FOR PUBLICATION WAS NEED TO MAINTAIN CREDIBILITY OF
NEGOTIATORS IN FISHING COMMUNITIES. AMB REPLIED THAT
THERE IS NO POINT IN MAINTAINING CREDIBILITY OF
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 OTTAWA 04476 01 OF 02 132311Z

NEGOTIATORS IF AT SAME TIME YOU KILL NEGOTIATIONS THEM-
SELVES, POINTING OUT THAT OTTAWA COULD ALWAYS TELL ITS
FISHERMEN ABOUT ADDITIONAL CLAIM IN CONTENT OF PACKAGE
DEAL ON ARBITRATION AND INTERIM FISHERIES. JAMIESON SAID
NOVA SCOTIA ELECTIONS ARE A FACTOR BUT NOT NECESSARILY
DETERMINING. POTENTIAL FOR INTERIM FISHERIES DEAL WAS
DISCUSSED AT LENGTH, WITH JAMIESON AND CADIEUX EXPRESSING

SOME INTEREST BUT MAINTAINING IT WOULD BE ALMOST AS DIFFICULT TO SELL AS LONG-TERM DEAL. END SUMMARY.

2. IN PRESENTING REFTEL POINTS, AMB SAID THE REAL QUESTION WAS WHAT WE SHOULD DO NOW THAT IT IS CLEAR THAT LONG-TERM PACKAGES ARE NOT POSSIBLE ON EITHER EAST OR WEST COAST. SIGNIFICANCE OF ADDITIONAL CLAIM PUBLICATION IS THAT IT COULD EASILY SET OFF A CHAIN OF REACTION ON BOTH SIDES, MAKING BOTH ARBITRATION AND THE SALVAGE OF SOME RECIPROCAL FISHERIES DIFFICULT AND TIME-CONSUMING OR EVEN IMPOSSIBLE TO ACHIEVE. AMB REHEARSED TALKING POINTS IN DETAIL, CONCLUDING THAT NEGOTIATORS SHOULD NOW BE ASKED ON URGENT BASIS TO COMMENCE PREPARATIONS FOR ARBITRATION AND ASSEMBLYING INTERIM FISHERIES REGIME TO CARRY US THROUGH THE ARBITRATION PROCESS, BUILDING ON THE AREAS OF AGREEMENT WHICH HAVE ALREADY BEEN REACHED.

3. JAMIESON LISTENED CAREFULLY. HE SAID HIS PRESENT INTENTION WAS TO PUBLISH EXTENDED CLAIM BUT HE WOULD CONSIDER MATTER AGAIN AND INFORM AMBASSADOR LATER TODAY OF THE GOC DECISION. JAMIESON DREW DISTINCTION BETWEEN PUBLICATION OF CLAIM IN FEDERAL GAZETTE--"WHICH IS NOT AN ACTION-ORIENTED MOVE"--AND PROMULGATION OF THE CLAIM MAKING IT OBLIGATORY ON CANADIAN AUTHORITIES TO ENFORCE. HE EMPHASIZED PUBLICATION WOULD NOT TRIGGER ENFORCEMENT AND FOREBEARANCE COULD CONTINUE "ALL WE WOULD BE DOING IS CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 04476 01 OF 02 132311Z

MAKING MORE FIRM IN LAW WHAT WE HAVE ALREADY CLAIMED." THIS STEP WAS A NECESSARY PREPARATION FOR ARBITRATION WHICH ALL NOW GENERALLY ACCEPT AS LIKELY.

4. JAMIESON SAID PRINCIPLE PURPOSE FOR PUBLICATION WAS NEED TO RE-ENFORCE CREDIBILITY OF CANADIAN NEGOTIATORS WITH CANADIAN FISHING INDUSTRY. OTTAWA HAD TO BE SEEN AS HAVING DONE SOMETHING TO REAFFIRM CANADIAN VIEWS ON BOUNDARIES IN ORDER TO ESTABLISH CREDIBILITY AND GAIN SUPPORT OF FISHERMEN FOR ANY INTERIM AGREEMENT WHICH MIGHT BE REACHED. JAMIESON SAID THERE WAS NO INTENTION TO GO TO PROMULGATION AND THEREFORE THERE WOULD BE NO CAUSE FOR ENFORCEMENT AGENCIES TO DO ANYTHING FURTHER THAN THEY NOW DOING.

5. JAMIESON REVIEWED AT LENGTH HISTORY OF THE NEGOTIATIONS TO DATE. HIS OBJECTIVE FROM BEGINNING HAD BEEN TO ACHIEVE AN AMICABLE SETTLEMENT BY NEGOTIATIONS, WITHOUT NECESSITY OF GOING TO ARBITRATION. HE THEREFORE REGRETTED VERY MUCH THE TURN OF EVENTS WHICH BROUGHT US TO CURRENT POINT. HE TRACED THE ENORMOUS DIFFICULTIES WHICH CHIEF U.S. AND CANADIAN NEGOTIATORS HAD BEEN FACED WITH IN

FIRST, HAVING TO RESOLVE THE BOUNDARY AND FISHERIES PROBLEMS SIMULTANEOUSLY AND SECONDLY, HAVING TO DEAL WITH A LARGE NUMBER OF HIGHLY SUBJECTIVE CONSTITUENCIES. REALITIES WERE THAT AFTER TWO YEARS WE ARE NOW BACK TO SQUARE ONE AND CONCEPT OF SETTling FISHERIES ISSUES TO DIFFUSE THE BOUNDARIES ISSUE HAD NOT WORKED.

6. JAMIESON WASN'T SURE WHERE THINGS HAD GONE WRONG. PRINCIPALLY, HE POINTED FINGER AT U.S. FISHERIES COUNCILS.

US NEGO-

TIATORS WERE HAMPERED BY LAW WHICH PERMITTED THEM ONLY TO NEGOTIATE WITH RESPECT TO FISHERIES IN DISPUTED ZONES WHEREAS CANADIAN NEGOTIATORS HAD MANDATE WITH RESPECT ALL CANADIAN WATERS. HOW COULD MUTUAL REGIME BE APPLIED

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 OTTAWA 04476 02 OF 02 132320Z
ACTION EUR-12

INFO OCT-01 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DLOS-09 DODE-00
DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00
H-01 INR-10 INT-05 IO-13 JUSE-00 L-03 NSAE-00
NSF-01 OES-09 OMB-01 PA-01 PM-05 SP-02 SS-15
NSCE-00 SSO-00 ICAE-00 INRE-00 /134 W

-----126473 132347Z /14

O 132255Z SEP 78

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC IMMEDIATE 8636

AMCONSUL TORONTO NIACT IMMEDIATE

ALL CANADIAN POSTS POUCH

C O N F I D E N T I A L SECTION 02 OF 02 OTTAWA 04476

WITHIN TERMS OF AN INTERIM AGREEMENT IF IT WERE RESTRICTED WITH RESPECT TO U.S. WATERS? AMBASSADOR REPLIED THAT HE HAD NO INSTRUCTIONS AS TO FORM AN INTERIM AGREEMENT MIGHT TAKE, E.G. WHETHER IT MIGHT BE IN FORM OF TREATY (WHICH WOULD SUPERCEDE 1976 FCMA), AN EXECUTIVE AGREEMENT, OR A RESOLUTION. HE POINTED OUT THAT WHILE WE COULD NOT MAKE COMMITMENTS WITH REGARD TO ACTIONS OF FISHERY COUNCILS ON MANAGEMENT OF FISHERIES ENTIRELY IN US WATERS, WE COULD MAKE SPECIFIC CONTRACTUAL COMMITMENTS.

7. WITH REGARD TO PROSPECTS FOR ACHIEVING INTERIM AGREEMENT, JAMIESON NOTED FUNDAMENTAL FISH STOCK ISSUES REMAINED, AND HE WAS NOT SANGUINE THAT MOVING FROM AN

INTERIM TO A LONG-TERM AGREEMENT WOULD BE EASY. CENTRAL ELEMENT IN AN INTERIM AGREEMENT WOULD HAVE TO BE OVERSIGHT OR SUPERVISION BY AN ORGANIZATION ("MECHANISM") WHICH HAD CLOUT AND WHICH COULD DEAL WITH ISSUES OF EQUITY. THERE HAD BEEN TOO MUCH IN THE PROPOSED LONG-TERM AGREEMENT OUTSIDE OF THE SCOPE OF BILATERAL CONSULTATION COMMITTEE. JAMIESON ELABORATED ON THIS POINT AT LENGTH SAYING THAT

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 OTTAWA 04476 02 OF 02 132320Z

THE CURRENT NEGOTIATORS HAD GOTTEN INTO TOO MUCH DETAIL DURING THE NEGOTIATIONS WHICH SHOULD HAVE BEEN TAKEN UP BY THE CONSULTATIVE MECHANISM.

8. AMBASSADOR STRESSED THAT WE SHOULD MAKE AS GREAT AN EFFORT AS POSSIBLE TO ARRIVE AT AN INTERIM AGREEMENT. HE RECOMMENDED BUILDING INCREMENTALLY, STARTING WITH THOSE ELEMENTS ON WHICH THERE WAS ALREADY AGREEMENT AND ADJUSTING THEM TO THE SHORTER TERM. THIS APPROACH WOULD TAKE HEAT OUT OF BOUNDARY ISSUES AS, IN FACT, A SUBSTANTIAL AMOUNT OF AGREEMENT ON FISHERIES HAD ALREADY BEEN REACHED.

9. WHILE AGREEING POSSIBILITY FOR AN INTERIM AGREEMENT STILL EXISTED, AMBASSADOR CADIEUX POINTED TO THREE OBSTACLES: FIRST, THERE WAS THE QUESTION OF HOW TO FAIRLY "BALANCE THE ACCOUNTS" POINTING OUT THAT FISHERMEN ON BOTH SIDES HAD MADE SACRIFICES FOR WHICH THEY FELT THEY HAD NOT BEEN RECOMPENSED. (DEPRIVATION OF SOME WEST COAST SALMON FISHERMEN FOR TWO YEARS RUNNING USED AS EXAMPLE.) SECOND, IN VIEW OF THE INTER-RELATIONSHIP OF ALL ELEMENTS CONCERNED, HE WONDERED WHETHER AN ISSUE SUCH AS HERRING COULD BE SET ASIDE. AND FINALLY, IT WOULD BE DIFFICULT TO MAKE A DEAL FOR 3 OR 4 YEARS SINCE CANADIAN FISHERMEN WOULD FEEL NO FUTURE MODIFICATIONS WOULD BE POSSIBLE AFTER A REGIME HAD BEEN IN EFFECT FOR SUCH A PERIOD OF TIME. RETURNING TO THIS POINT, MINISTER JAMIESON SAID, IF IT COULD BE DEMONSTRATED THE AGREEMENT PROVIDED AN EFFECTIVE MONITORING AND MEDIATION MECHANISM, SOME OF THESE CONCERNS ON PART OF FISHERMEN MIGHT BE REMOVED.

10. JAMIESON AGAIN VOICED THE OPINION THAT THE CANADIAN FISHING CONSTITUENCY WOULD BE MORE DISPOSED TO INTERIM

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 04476 02 OF 02 132320Z

AGREEMENT TALKS IF IT HAS SEEN OTTAWA TAKING STRONG STAND ON BOUNDARY BY PUBLICATION OF EXPANDED CLAIM.

AMBASSADOR POINTED OUT THAT MESSAGE TELEGRAPHED BY SUCH ACTION WOULD BE READ BY MORE THAN ONE PARTY AND THERE COULD BE DIFFERENT INTERPRETATIONS. THE SAME RESULT COULD BE ACHIEVED WITH THE CANADIAN FISHING CONSTITUENCY, HE THOUGHT, BY PRESENTING THEM WITH PACKAGE WHICH INCLUDED EXPANDED CLAIM. JAMIESON CLAIMED HIS EXPERTS URGING PUBLICATION ON HIM AS A LEGAL NECESSITY TO REAFFIRM CLAIM IN PREPARATION FOR ARBITRATION. IN SUMMING UP, JAMIESON EMPHASIZED THAT HE DID NOT WISH TO EXACERBATE SITUATION AND HAD NO INTENTION OF DOING ANYTHING IN A PROVOCATIVE MANNER. HIS ONLY INTENTION WAS TO FORMALIZE WHAT HAD ALREADY BEEN DONE, I.E., ASSERTION OF CANADIAN CLAIM, AND THAT THERE WAS NO INTENTION OF GOING BEYOND THIS LEGAL STEP. AMBASSADOR AGAIN STRESSED U.S. JUDGMENT THAT PUBLICATION OF EXPANDED CLAIM WOULD MAKE ACHIEVEMENT OF INTERIM AGREEMENT SUBSTANTIALLY MORE DIFFICULT.

11. SUBSEQUENT TO MEETING EMBOFF SPOKE TO LORNE CLARK (DEPUTY NEGOTIATOR, OFFICE OF THE NEGOTIATOR FOR MARITIME BOUNDARIES) ON THE DISTINCTION BETWEEN PUBLICATION AND PROMULGATION. CLARK SAID PUBLICATION WAS THE NECESSARY PROCEDURAL STEP BEFORE AN EXECUTIVE ACT INVOLVING ENFORCEMENT JURISDICTION CAN BE UNDERTAKEN. AT LEAST 60 DAYS MUST FOLLOW PUBLICATION BEFORE PROMULGATION, WHICH WOULD BE IN THE FORM OF AN ORDER-IN-COUNCIL, COULD TAKE PLACE. WITHOUT PROMULGATION GOVERNMENT WOULD NOT BE ABLE TO EXERT SOVEREIGNTY IN THE EXPANDED CLAIM AREA AND CANADIAN FISHING BOATS IN AREA WOULD BE SUBJECT TO THREAT OF ARREST BY U.S. AUTHORITIES.

12. DUE DEPARTURE FROM OTTAWA IMMEDIATELY FOLLOWING MEETING, THIS MESSAGE NOT SEEN BY AMBASSADOR. ENDERS

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FISHERIES, BOUNDARIES, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 sep 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978OTTAWA04476
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780373-0137
Format: TEL
From: OTTAWA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780972/aaaachez.tel
Line Count: 256
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 92055851-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 231339
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 13 jul 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1453418
Secure: OPEN
Status: NATIVE
Subject: FISHERIES AND BOUNDARIES NEGOTIATIONS AND -- CANADA'S EXPANDED CLAIM IN THE GULF OF MAINE
TAGS: EFIS, CA
To: STATE TORONTO
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/92055851-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014